

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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December 23, 1983



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Executive Secretary

No. 83/134

TO COUNTY ASSESSORS:

PROPERTY TAXES RULE 462.5

Enclosed is a copy of Property Taxes Rule 462.5, Change in Ownership of Real Property Acquired to Replace Property Taken by Governmental Action or Eminent Domain Proceedings. This rule was adopted by the Board of December 15.

The rule was submitted to the Office of Administrative Law for publication in the California Administrative Code. The rule will be effective at the completion of this process. Verityped copies will be mailed to you after publication.

Sincerely,

A handwritten signature in cursive script that reads "Verne Walton".

Verne Walton, Chief  
Assessment Standards Division

VW:sk  
Enclosure

RULE 462.5 CHANGE IN OWNERSHIP OF REAL PROPERTY ACQUIRED  
TO REPLACE PROPERTY TAKEN BY GOVERNMENTAL  
ACTION OR EMINENT DOMAIN PROCEEDINGS.

(a) GENERAL. Section 2(d) of Article XIII A of the California Constitution and the Revenue and Taxation Code generally provide that property tax relief shall be granted to any real property owner who acquires comparable replacement property after having been displaced by governmental acquisition or eminent domain proceedings.

For purposes of implementing this property tax relief, the term "change in ownership" shall not include the acquisition of comparable real property as replacement for property taken if the person acquiring the replacement real property has been displaced from property in this state by eminent domain proceedings instituted by any entity authorized by statute to exercise the power of eminent domain, by acquisition by a public entity, or by governmental action which has resulted in a judgment of inverse condemnation. For purposes of this section, the term "replaced property" shall mean property taken or acquired by an acquiring entity.

(b) BASE YEAR VALUE OF REPLACEMENT PROPERTY.

(1) The adjusted base year value of replacement property acquired by the displaced person shall be the lower of (A) the fair market value of the comparable replacement property or (B) the sum of the adjusted base year value of the property from which the person was displaced plus the amount, if any, by which the full cash value of the comparable replacement property, as determined by the assessor, exceeds 120 percent of the amount received by the person for the property that was taken or acquired by the acquiring entity.

(2) For purposes of this section, the award or purchase price paid by the acquiring entity shall not include amounts paid for relocation assistance and other non-real property items unrelated to the full cash value of the real property taken or acquired.

(3) The following procedure shall be used in determining the appropriate adjusted base year value of comparable replacement property:

(A) Compare the award or purchase price paid by the acquiring entity for the property taken or acquired with the full cash value of the comparable replacement property.

(B) If the full cash value of the comparable replacement property does not exceed 120 percent of the award or purchase price of the property taken or acquired, then the adjusted base year value of the property taken or acquired shall be transferred to the comparable replacement property.

(C) If the full cash value of the replacement property exceeds 120 percent of the award or purchase price of the property taken or acquired, then the amount of the full cash value over 120 percent of the award or purchase price paid shall be added to the adjusted base year value of the property taken or acquired. The sum of these amounts shall become the replacement property's base year value.

(D) If the full cash value of the comparable replacement property is less than the adjusted base year value of the property taken or acquired, then that lower value shall become the replacement property's base year value.

(4) In instances where there is no award or purchase price paid by the acquiring entity (i.e., a gift or exchange) for the property taken or acquired, then the full cash value of such property taken or acquired, as determined by the assessor of the county in which such property is located, shall be used in the determination of the appropriate adjusted base year value of comparable replacement property.

(c) COMPARABILITY. Real property obtained as a replacement for property taken or acquired by governmental acquisition or eminent domain proceedings shall be deemed comparable if it is similar to the taken or acquired property in size, utility, and function.

(1) SIZE. Size shall be considered to be a function of value and not of the physical measurements of the taken or acquired and replacement properties. Replacement property shall be considered comparable in size if its full cash value does not exceed 120 percent of the award or purchase price paid by the acquiring entity for the property from which the person was displaced. To the extent that the full cash value of the replacement property exceeds 120 percent of the award or the purchase price paid for the taken or acquired property, then the replacement property shall to that extent be considered not comparable and to have undergone a change in ownership.

(2) UTILITY AND FUNCTION. Replacement property shall be considered comparable in utility and function if it is subject to similar government restrictions, such as zoning, and if its actual or intended use is substantially the same as the property taken; i.e., single-family residential and duplex, multi-family residential other than duplexes, commercial, industrial, agricultural, open space, vacant, etc. In cases where the replacement property involves a mixed use, relief shall be granted only to the extent that the use is comparable.

EXAMPLE: A home is replaced by a combination dwelling and commercial property. Relief is applicable to only the dwelling portion of the replacement property; the commercial portion shall be considered as having changed ownership.

EXAMPLE: A combination dwelling and commercial property is replaced with a home. Only the dwelling portion of the property taken shall be considered in determining the comparability and the amount of relief. The right to relief on the commercial portion of the property taken is waived unless comparable replacement commercial property is acquired after the date of displacement and a timely request is made for assessment relief.

EXAMPLE: A combination dwelling and commercial property is replaced with a home, and later the displaced person also acquires a separate comparable replacement commercial property. Pro-rata relief shall be granted on both the replacement home and commercial property to the extent provided in subdivision (b)(1).

(d) OWNERSHIP REQUIREMENTS. Eligibility for the property tax relief under this section shall be available only to the owner, whether it be one or more individuals, a partnership, a corporation or any other legal entity, who/that was displaced by governmental acquisition or eminent domain proceedings. Unless an exclusion is otherwise applicable as is provided in Section 462,

relief is predicated upon title to the replacement property being taken in exactly the same manner and in exactly the same name as the individual(s) or legal entity that held title to the property taken.

For purposes of this section, owner means the fee owner or life estate owner of the real property taken or acquired and excludes the lessee thereof unless the lessee owns improvements located on land owned by another, in which case, the lessee shall be entitled to property tax relief for comparable replacement improvements.

(e) NEW CONSTRUCTION. Any new construction required to make replacement property comparable to the property taken or acquired shall, to that extent, be eligible for property tax relief, provided that such new construction is completed after March 1, 1975, and not prior to any of the dates listed in subdivision (f)(3), and provided a timely request is made for assessment relief.

(f) TIME LIMITS FOR QUALIFICATION.

(1) The provisions of this section shall apply to property acquired after March 1, 1975, as replacement property for property taken by eminent domain proceedings, public acquisitions, or judgments of inverse condemnation, and shall affect only those assessments of the replacement property on the 1983-84 assessment roll and thereafter, provided the

person acquiring replacement property makes a timely request for such assessment with the assessor. No reassessments and no refunds shall be made for any years prior to the 1983-84 fiscal year because of decreases made to assessments for the 1983-84 fiscal year or fiscal years thereafter as a result of the provisions of this section. Reassessments and refunds shall be made retroactively to the date of acquisition of replacement property for fiscal years commencing with 1983-84, provided a timely request is made therefor.

(2) For purposes of this section, a request made by January 1, 1987, shall be deemed timely for replacement property acquired after March 1, 1975, and before January 1, 1983. For replacement property acquired on or after January 1, 1983, a request shall be deemed timely if made within four years of the following dates:

(A) The date final order of condemnation is recorded or the date the taxpayer vacates the replaced property, whichever is later, for property acquired by eminent domain.

(B) The date of conveyance or the date the taxpayer vacates the replaced property, whichever is later, for property acquired by a public entity by purchase, gift or exchange.

(C) The date the judgment of inverse condemnation becomes final or the date the taxpayer vacates the replaced property, whichever is later, for property taken by inverse condemnation.



(3) Replacement property shall be eligible for property tax relief under this section if it is acquired after March 1, 1975, and not prior to any of the following dates:

(A) The date the initial written offer is made for the replaced property by the acquiring entity;

(B) The date the acquiring entity takes final action to approve a project which results in an offer for or the acquisition of the replaced property; or

(C) The date, as declared by the court, that the replaced property was taken;

provided, however, no property tax relief shall be granted to replacement property prior to the date of displacement, as defined in subsection (4) below.

(4) For purposes of this section, date of displacement shall be the earliest of the following dates:

(A) The date the conveyance of the replaced property to the acquiring entity or the final order of condemnation is recorded.

(B) The date of actual possession by the acquiring entity of the replaced property.

(C) The date upon or after which the acquiring entity may take possession of the replaced property as authorized by an order for possession or by a declaration of taking.

(g) ADMINISTRATION.

(1) The assessor shall consider any of the following documents as proof of actual displacement of a taxpayer when a request has been made for the assessment relief provisions under this section:

(A) Certified recorded copy of the final order of condemnation.

(B) A copy of a recorded deed showing acquisition by a public entity.

(C) Certified copy of a final judgment of inverse condemnation.

(2) Upon receipt of a taxpayer request and proof of actual displacement, the assessor shall forward copies of such documents to the Board along with a notation of whether or not relief was granted in the county for comparable replacement

property. The Board shall review such information to determine whether more than one request for assessment relief has been made as a result of a single taking or governmental acquisition and if so shall advise the appropriate assessor(s).

Authority: Section 15606, Government Code.

Reference: Section 68, Revenue and Taxation Code.